

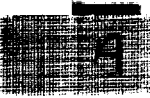
Approved For Release 2006/02/07 : CIA-RDP77M00144R001100210001-9

Summary of Various Legislative Proposals
of Interest to the Central Intelligence Agency

- A. Congressional Review of Executive Agreements
- B. Freedom of Information Act Amendments
- C. National Security Act Amendments
- D. Privacy Act Amendments
- E. CIA Oversight by Congress
- F. GAO Audits of Intelligence Agencies
- G. Financial Disclosure

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CONGRESSIONAL APPROVAL OF EXECUTIVE AGREEMENTS

Several bills have been introduced which would subject Executive agreements to congressional review. These include S. 632, introduced by Senator Bentsen; S. 1251, introduced by Senator Glenn, and its companion bill H. R. 5489, introduced by Representative Spellman; and H. R. 4438, introduced by Representative Morgan and by 22 other members of the House International Relations Committee.

Each of these bills proposes similar congressional review procedures. Executive agreements would be transmitted to Congress and would come into force after a 60-day period unless disapproved by both Houses. If the President believes disclosure of an agreement would prejudice national security, the agreement would be transmitted to the Senate Foreign Relations and House International Relations Committees under a "written injunction of secrecy." The committees would thereupon make the secret agreements available for inspection only by members of their respective Houses.

These bills have been spawned by the belief that the Senate's treaty-making authority, which it shares with the President, has been bypassed by the device of the Executive agreement. The practical and constitutional impact of these bills hinges on the scope of their definition of Executive agreement.

(a) S. 632 defines Executive agreement as "any bilateral or multilateral international agreement or commitment, other than a treaty, which is binding upon the United States, and which is made by the President or any officer, employee, or representative of the executive branch ... "

(b) S. 1251 defines the term as "any bilateral or multilateral international agreement or understanding, formal or informal, written or verbal, other than a treaty, which involves, or the intent is to leave the impression of, a commitment of manpower, funds, information, or other resources of the United States, and which is made by the President or any officer, employee, or representative of the executive branch ... "

(c) H. R. 4438 defines Executive agreement as "any bilateral or multilateral international agreement or commitment, regardless of its designation, other than a treaty, and including an agency-to-agency agreement, which is made by the President or any officer, employee, or representative of the executive branch ... " Only Executive agreements "concerning the establishment, renewal, continuance, or revision of a national commitment" are required to be reported to Congress under this bill. However, the term "national commitment" is defined

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FREEDOM OF INFORMATION ACT AMENDMENTS

S. 1210, a bill to amend the Freedom of Information Act (5 U.S.C. 552), is pending before the Subcommittee on Administrative Practice and Procedure. Senator Kennedy introduced the bill and held hearings on it on April 28 and 29, and June 12. The bill implicitly recognizes the right of a federal employee to disclose to any person information which is obtainable under the Freedom of Information Act (FOIA), and prohibits an agency from taking any adverse personnel action against an employee who so discloses. The bill does not make clear whether an employee must seek authorization from designated agency FOIA officials before releasing a document, or whether he can release a document predicated on his own belief that the document is not exempt from release.

The recent Freedom of Information Act amendments (P. L. 93-502) have dramatically increased the workload of federal agencies in dealing with these requests. CIA, for example, has found it necessary to assign over fifty of its employees to work full time handling FOIA requests. Numerous other Agency employees are also involved in processing these requests on less than a full-time basis. The one saving grace of the present law is that it permits agencies to centralize their handling of these requests, so that designated agency representatives determine what can be released, and what can and must be withheld. S. 1210, if interpreted to allow employees to reach their own decision on what can be released, would destroy this structure, and thereby destroy agency attempts to deal with the Freedom of Information Act in a methodical, organized manner.

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NATIONAL SECURITY AND CIA ACT AMENDMENTS

Key Bills

During the 93rd Congress, Senator Stennis, Senator Proxmire, Representative Nedzi, and others introduced proposals to amend the CIA section of the National Security Act of 1947. Senator Proxmire (S. 244) and Representatives McCloskey (H.R. 628), Dellums (H.R. 343), and Findley (H.R. 5873) have introduced National Security Act amendments in the 94th Congress. During the 93rd Congress, the Senate approved an amendment to the Fiscal 1975 Defense Authorization bill (H.R. 14592), which incorporated the Proxmire language, but the amendment was rejected in conference on the point of germaneness. Representative Nedzi held hearings on his bill in July 1974, but his Armed Services subcommittee did not report a bill. No action by the 94th Congress is expected until the House and Senate Select Committees currently investigating the Agency make their recommendations.

Various Provisions

Following are the specific proposed amendments to the Act which appear in one or more of the bills introduced in the 93rd or 94th Congress.

1. Insert the word "foreign" before the word "intelligence" in the Act, wherever it refers to the activities authorized to be undertaken by the Central Intelligence Agency (Stennis, Proxmire, Nedzi, Bennett bills).

2. Reiterate existing prohibitions against CIA assuming any police or law-enforcement powers, or internal-security functions (Stennis, Proxmire, Nedzi bills).

3. Enumerate permissible activities for the CIA in the United States:

- (a) Protect CIA installations;
- (b) Conduct personnel investigations of employees and applicants, and others with access to CIA information;
- (c) Provide information resulting from foreign intelligence activities to other appropriate agencies and departments;
- (d) Carry on within the United States activities necessary to support its foreign intelligence responsibilities.

The Stennis, Proxmire, and Nedzi bills include (a), (b), and (c), but only the Nedzi and Stennis bills include item (d), which is considered to be an essential proviso.

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PRIVACY

The 93rd Congress enacted landmark privacy legislation, (P.L. 93-579), which will become effective in September 1975. In drafting the Privacy Act, Congress recognized that "certain areas of Federal records are of such a highly sensitive nature that they must be exempted" (House Report 93-1416). Accordingly, Congress exempted systems of records "specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy" [subsection (k)(1)], and Central Intelligence Agency records [subsection (j)(1)] from portions of the Act. Sections of the Act which do apply to CIA prohibit the dissemination of records except for specific enumerated purposes, require the Agency to maintain a listing of each disclosure of a record for at least five years, and publish annually in the Federal Register a general description of our systems of records concerning American citizens or permanent resident aliens. The Agency is exempt from the section granting citizens or permanent resident aliens access to records held on them by federal agencies. STAT

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CIA OVERSIGHT PROPOSALS

The longstanding congressional oversight procedure of reporting on Agency operations only to the Armed Services and Appropriations Committees of both houses was significantly altered by the Foreign Assistance Act of 1974, which requires reporting on covert action to the foreign affairs committees of both Houses. This means six committees now receive reports on covert operations. Other, more far-reaching proposals have been introduced in the 94th Congress. The Senate Subcommittee on Intergovernmental Relations of the Committee on Government Operations held hearings on 9 and 10 December 1974 regarding CIA oversight. Senator Muskie, Chairman of this Subcommittee, originally announced additional hearings for early 1975, but is deferring to the Senate Select Committee.

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GENERAL ACCOUNTING OFFICE AUDITS

Senator Proxmire has introduced S. 653, amending the Budget and Accounting Act of 1921. This bill would authorize the Comptroller General to conduct an audit of the accounts and operations of an intelligence agency, when requested by a congressional committee with legislative jurisdiction of that agency. The legislation states this audit shall be conducted notwithstanding the provision of section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403). STAT

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 **CENTRAL INTELLIGENCE AGENCY**
Office of Legislative Counsel
Washington, D. C. 20505
Telephone:

TO: Mr. Max Friedersdorf
Assistant for Legislative Affairs
The White House

max

As you are aware, a number of proposals directly affecting CIA and the intelligence community have been introduced in the 94th Congress. My staff has prepared a summary of the major topics we will probably have to deal with before the 94th Congress adjourns. As I mentioned to you on the phone, I thought you might be interested in a copy of the summary. Some of these topics, such as congressional review of executive agreements and Freedom of Information Act amendments, have applicability wider than just the intelligence community. I think these two subjects warrant discussion at the next Legislative Interdepartmental Group meeting. I am also including a classified memorandum on pending electronic surveillance legislation.

George E. Cary
Legislative Counsel

CLASSIFIED DOCUMENT ATTACHED

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FORM 6-68 1533 OBSOLETE PREVIOUS EDITIONS

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OFFICIAL ROUTING SLIP											
TO	NAME AND ADDRESS						DATE		INITIALS		
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Remarks: <p>Attached is a summary of legislation affecting CIA and the intelligence community which we have prepared for Jack Marsh and Max Friedersdorf of the White House staff. I believe Jim Oliver would also be interested in a copy. Would you please forward the attached copy to him. Thank you.</p> <p style="text-align: center;">SIGNED</p> <p style="text-align: center;">George L. Cary Legislative Counsel</p>											
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CENTRAL INTELLIGENCE AGENCY

Office of Legislative Counsel
Washington, D. C. 20505

Telephone:

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TO: Mr. John O. Marsh, Jr.
Counsellor to the President
The White House

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SIGNED

George L. Cary
Legislative Counsel

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ROUTING AND RECORD SHEET

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TO: (Officer designation, room number, and building)	DATE		COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)
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1. Director			<p>Attached for your information is a summary we have prepared for Jack Marsh and Max Friedersdorf of the White House staff regarding relevant legislation before the 94th Congress.</p> <p style="text-align: center;">SIGNED George L. Cary Legislative Counsel</p> <p>cc: OGC Mr. Clarke Mr. Knoche</p>
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